

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

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5)
6 IN RE: BOSTON SCIENTIFIC)
CORPORATION ET AL)
7 SECURITIES LITIGATION)

1:05-cv-11934-DPW

8)
9)
10 BEFORE: THE HONORABLE DOUGLAS P. WOODLOCK

11
12 STATUS/SCHEDULING CONFERENCE

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14
15 John Joseph Moakley United States Courthouse
16 Courtroom No. 1
17 One Courthouse Way
18 Boston, MA 02210
19 Wednesday
20 October 21, 2009
21 at 2:30 p.m.

22 Brenda K. Hancock, RMR, CRR
23 Official Court Reporter
24 John Joseph Moakley United States Courthouse
25 One Courthouse Way
Boston, MA 02210
(617)439-3214

1 APPEARANCES:

2 ZIMMERMAN & REED, PLLP
3 By: Patricia A. Bloodgood, Esq.
4 Carolyn G. Anderson, Esq.
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6 Minneapolis, MN 55402
7 On behalf of Plaintiffs Mississippi PERS

8 SHEARMAN & STERLING LLP
9 By: John Gueli, Esq., Esq.
10 Kirsten Nelson Cunha, Esq.
11 Christopher R. Fenton, Esq.
12 599 Lexington Avenue
13 New York, NY 10022
14 On behalf of the Defendants.
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1 (The following proceedings were held in open court
2 before the Honorable Douglas P. Woodlock, United States
3 District Judge, United States District Court, District of
4 Massachusetts, at the John J. Moakley United States Courthouse,
5 One Courthouse Way, Courtroom 1, Boston, Massachusetts, on
6 Wednesday, October 21, 2009):

7 THE CLERK: All rise.

8 (The Honorable Court entered the courtroom at 2:30 p.m.)

9 THE CLERK: This is Civil Action 05-11934, In Re:
10 Boston Scientific Corporation, and Civil Action 08-12139,
11 Robert Hochstadt versus Boston Scientific Corporation.

12 Will counsel please identify themselves for the
13 record.

14 MS. BLOODGOOD: Patricia Bloodgood from Zimmerman Reed
15 on behalf of the Mississippi Public Employee Retirement System
16 in case 11934.

17 MS. ANDERSON: Good afternoon. Carolyn Anderson from
18 Zimmerman Reed on behalf of Mississippi PERS.

19 MR. GUELI: Good afternoon, your Honor. John Gueli
20 with Shearman and Stearling for Boston Scientific and the
21 defendants in both actions.

22 MS. NELSON CUNHA: Good afternoon, your Honor.
23 Kirsten Cunha from Shearman and Stearling on behalf of the
24 defendants in both actions.

25 MR. FENTON: Good afternoon, your Honor. Christopher

1 Fenton, also with Shearman and Stearling, on behalf of the
2 defendants.

3 THE COURT: Well, I was concerned about both of these
4 Boston Scientific cases just not getting out of control a
5 little bit.

6 But, as I understand it, the parties in the securities
7 litigation case would prefer not to have the parties in
8 Hochstadt present for some of the discussion; is that it?

9 MR. GUELI: Your Honor, yes. That was a request by
10 the defendants, and I spoke with counsel for both cases, and I
11 raised it with them beforehand.

12 My concern is really, for example, with the securities
13 litigation, the motion presently before the Court talks about
14 confidential documents and inadvertently produced documents,
15 and under the terms of the confidentiality orders and
16 protective orders we negotiated in both cases we did our very
17 best to try to keep the discovery separate. And, so, for that
18 reason, I had asked, for example, ERISA counsel if they could
19 be excused or would be excused while the Motion to Compel was
20 being discussed.

21 THE COURT: Let us see if we get to a point where
22 there is a potential for compromise of the concerns that you
23 have expressed. I guess the way I would like to work back on
24 this is, I want to get some sense of how many documents are we
25 really talking about here?

1 MS. BLOODGOOD: Your Honor, are you asking about the
2 privilege motion?

3 THE COURT: Yes.

4 MS. BLOODGOOD: We were told in the defendant's brief
5 that there are 1,800 documents on the defendant's privilege
6 log. We have asked for production and the overruling of the
7 privilege claim with regard to four categories of those
8 documents. The largest category --

9 THE COURT: No, no. I am just taking names now; I
10 will issue an indictment later.

11 1,800 documents. What does that mean? Bigger than a
12 bread box? What is it? What are we talking about here?

13 MS. BLOODGOOD: I haven't seen it.

14 THE COURT: That makes two of us.

15 MR. GUELI: I am not certain of -- I mean, that's the
16 total number of documents. I think the specific --

17 THE COURT: Let me cut to the chase. The question is
18 whether I appoint a Special Master and the dimensions of the
19 undertaking I am going to ask the Special Master to take on. I
20 want somebody who is competent to deal with attorney-client
21 privilege issues, but the Boston Scientific litigation has
22 generated conflicts throughout the City.

23 MS. BLOODGOOD: I have a suggestion, your Honor.

24 THE COURT: Well, I probably will accept your
25 suggestion, but I just want to get a sense of the dimensions of

1 this.

2 MR. GUELI: Well, again, I think the documents that
3 are specifically the subject of the motion -- I mean, again,
4 you know, there were a thousand, or whatever the number is, on
5 the privilege log.

6 THE COURT: 1,800 is what I have been told, although I
7 have seen 1,000.

8 MR. GUELI: As I understand it, that is not the
9 subject of the motion. But I don't know if Ms. Bloodgood has a
10 different set. I haven't tallied up the number, but I think
11 the privilege log entries that are the subject of the motion
12 are spelled out, and perhaps we can do the math and figure out
13 --

14 THE COURT: So, maybe I will go back to your
15 suggestion. What are you talking about?

16 MS. BLOODGOOD: Okay. In defendant's brief they told
17 us there were 1,800 documents on the privilege log, 450 of them
18 are in the category of documents of the internal recall
19 investigation. We were told by defendants that this is the
20 largest category. There are three other categories that
21 plaintiffs seek to have the privilege overruled.

22 If you are talking about a Special Master or a
23 Magistrate, one suggestion is, if the Court is not inclined to
24 have a Magistrate review all documents that fit those
25 categories, which I agree with Mr. Gueli would be less than

1 1,800 -- fewer than; excuse me -- the parties could submit
2 examples to the Special Master, 50 or 100 selected by each
3 side.

4 THE COURT: Why does this have to be a Rube Goldberg
5 machine? I still don't understand what we are talking about in
6 terms of documents, what it is. If I said, Produce the
7 documents they are asking for, what would you do?

8 MR. GUELI: Well, the answer, your Honor, would be
9 that the documents that are spelled out in their motion -- I
10 haven't counted them, your Honor; that is my only point.

11 THE COURT: You have got them segregated someplace;
12 you know where they are?

13 MR. GUELI: Yes, yes, we have.

14 THE COURT: Do you have a box?

15 MR. GUELI: My only hesitancy, your Honor --

16 THE COURT: Have you weighed the box?

17 MR. GUELI: These are on an electronic database, so I
18 haven't done that.

19 THE COURT: Well, we will find a unit of measure that
20 is comprehensible to everyone here, but I just want to resolve
21 this. On the other hand, I do not want to devote the time of
22 Magistrates of this court to being diverted on this excursion,
23 the destination of which remains unclear, except I am told it
24 is on an electronic database.

25 MR. GUELI: As I understand the motion, it challenges

1 the documents that we've already -- the large part we have
2 already re-reviewed. That number of documents is in the area
3 of -- that are being withheld right now is in the area of I
4 think about 700 documents.

5 THE COURT: Well, that is a new figure. We have had
6 450, we have had 1,800, we have 1,000 and 700. Okay. Seven
7 hundred documents; each of them the dimensions of *War and*
8 *Peace*?

9 MR. GUELI: No. I think many of these are e-mails, so
10 I don't have a page calculation for you.

11 THE COURT: I express my frustration at just being
12 able to put my arms around these documents, metaphorically.

13 When a human being or a judicial officer -- they may
14 be distinct categories -- has to deal with this issue, what is
15 it that that human being is going to do? They are going to
16 pick up something, they are going to look at it. How many of
17 the "somethings" are they going to pick up?

18 We could say that these are smoots and that would be
19 the unit of measurement, but I am more familiar with pages.

20 MR. GUELI: My best estimate right now is that
21 probably most of these documents are no more than three, four
22 pages, because most of them, I think, are e-mails. And there
23 are a few that are Power Point presentations, so they run about
24 20 to 30 pages. So, I mean, we could do the math to find out.

25 Again, my guess would be we are probably talking, if

1 you printed these out, probably two to three boxes of
2 documents. But it is really just a guesstimate, because I
3 haven't actually tried to do that type of calculation.

4 THE COURT: All right. So, why don't I have a Special
5 Master look at this. There is a dispute. I will ask the
6 Special Master to tell me about the dispute.

7 MR. GUELI: You mean --

8 THE COURT: Meaning, that you people get to pay for
9 this undertaking. For the most part, being in the Federal
10 Court is, at least in terms of taking the time of Judicial
11 Officers, a free good. You get in here for \$450 and you get to
12 consume as much time as you are able to extract from the Judge,
13 but you don't pay anything extra for it.

14 Now you've got a dispute. Okay. We will have a
15 Special Master decide it, and I will allocate the monies
16 between the parties over this as to the Special Master. I
17 probably should ask what is the size of the box, but I am not
18 going to do that. I probably should not take the time of the
19 Magistrate Judge, nor my own, to deal, at least in the first
20 cut, as a disinterested evaluator of these documents. So, a
21 Special Master.

22 MR. GUELI: And I understand all of that, your Honor,
23 but at the risk of being dense, I am a little unclear. Will
24 the Special Master be asked to review everything that is
25 withheld?

1 THE COURT: Whatever is in dispute. Right now I am
2 not sure I know what is in dispute.

3 MR. GUELI: This was my confusion before, because, as
4 I said, there are specific documents, privileged entries that
5 are mentioned in the motion and the categories, as
6 Ms. Bloodgood referred to, and, so, that was part of the
7 confusion at the beginning of this.

8 THE COURT: Well, but you just told me about 700
9 documents of varying lengths filling two to three boxes. I
10 mean, there is a universe; at some point we are going to find
11 out what the universe is.

12 If you are still uncertain about the universe, I guess
13 that is, again, another problem. And reading through this, I
14 cannot say that I thought that I saw any smoking-gun
15 possibilities here, but if people want to pay to do this sort
16 of thing, you get to pay to do it.

17 MS. BLOODGOOD: Does your Honor want suggestions on a
18 Special Master, or are you going to appoint one?

19 THE COURT: Well, do you have someone in your office
20 who --

21 MS. BLOODGOOD: I don't, no. I just didn't know what
22 your Honor's preference was. It sounds like we are going to
23 have a dispute on the number of documents, which surprises me
24 very much, because they were culled out in defendant's
25 responsive briefs. So, I am surprised at his confusion as to

1 the number of documents. There's not 700 documents. We are
2 not talking about the redacted documents they re-reviewed.

3 It was clear when they responded to our motion that
4 there are 1,800 documents on the privilege log, which is not
5 very many, and there is some subcategory of that that are at
6 issue which can be identified, and that is the documents we are
7 talking about.

8 THE COURT: Identified by whom?

9 MS. BLOODGOOD: Identified by defendants, because they
10 have been described, the areas of dispute have been described
11 in our motion.

12 THE COURT: Well, they seem to be at sixes and sevens
13 over what those documents are.

14 MS. BLOODGOOD: It does sound like that.

15 MR. GUELI: That actually clears it up quite a bit,
16 because if what we are talking about or what plaintiffs are
17 asking for is a Special Master to review the documents that
18 they specifically identified by category in their motion, that
19 answers the question.

20 MS. BLOODGOOD: And I want to make sure that counsel
21 is aware that we gave some examples of those documents in our
22 brief. Those are not just the ones we would want identified by
23 a Special Master, particularly since defendants changed their
24 privilege log after we filed that motion. So, the descriptions
25 of those documents, we want the categories of -- the documents

1 that fit those categories, all of them, that are on the log,
2 not just the examples, reviewed by a Special Master, your
3 Honor.

4 THE COURT: You mean everything that is on the
5 privilege log?

6 MS. BLOODGOOD: No; the categories of documents --

7 THE COURT: Just those that fall in those categories,
8 and you leave it up to them to figure out whether they fall in
9 those categories?

10 MS. BLOODGOOD: I don't know that I have much choice.
11 It's quite obvious -- some of them are quite obvious because of
12 the description on the log, so it's not difficult. The
13 description in the brief fits the description on the log, and
14 that is documents that were generated by the recall
15 investigation group, documents where an attorney is merely a cc
16 or one of many recipients, documents that refer to documents as
17 being reflecting legal advice as opposed to providing it.

18 So, the log will dictate the categories and the actual
19 documents that should be reviewed by a Special Master.

20 THE COURT: All right. Well, I guess the first order
21 of business is that you respond by capturing these documents
22 here and make them available and tell me in a relatively prompt
23 period of time how many we are talking about, because I am
24 concerned about what it is that I am asking someone who will be
25 a member of the Bar to undertake here.

1 So, how quickly can that be done?

2 MR. GUELI: Today is Wednesday. Early next week we
3 can certainly communicate to the Court --

4 THE COURT: Well, all right. There are some
5 scheduling issues that that raises, but we will do it that way.
6 You say you think that we are talking about two boxes, banker's
7 boxes?

8 MR. GUELI: Your Honor, I really was just trying to
9 give a rough guesstimate if we were talking a few hundred
10 documents.

11 THE COURT: All right. Well, in any event, what I
12 want you to do is identify them and deliver them to the Court
13 what it is that they have asked for, deliver it to the Court by
14 no later than next Wednesday. And I will see if in the interim
15 I can locate someone who is not going to suffer from conflicts
16 of some sort, because I am going to read conflict broadly in
17 this setting.

18 I probably should have started here, but that brings
19 me to this extension of time here. I know you are going to say
20 you do not know what they are, so you cannot tell me what the
21 discovery is going to be. But, as I understand it, you have
22 asked for one fact deposition that rose out of the privilege
23 issue; is that it?

24 MS. BLOODGOOD: Yeah. Excuse me. Yes. The parties
25 delayed the deposition of Mr. Sandman, the former general

1 counsel, in light of this dispute, and that deposition remains
2 to be taken, and we were thinking we would take it after this
3 dispute was resolved.

4 THE COURT: That is the only thing that is hinging on
5 the dispute in terms of timing. For instance, your expert
6 depositions and so on aren't hinging on this?

7 MS. BLOODGOOD: Right, correct.

8 THE COURT: But you want all of that done before --
9 you want the expert depositions and the deposition of Mr.
10 Sandman before the dispositive motions?

11 MS. BLOODGOOD: Ideally, if that is --

12 THE COURT: Well, you are in an ideal world here.
13 What does that mean? Do you or not? What do you want? I
14 mean, I am trying to --

15 MS. BLOODGOOD: I didn't make that motion on the
16 timing, your Honor; that's why I am expressing some confusion.

17 THE COURT: I just want to be sure that I understand
18 what the parties' disposition is, and I am looking first to the
19 plaintiff, and then I will look to the defendant. It is a
20 joint motion.

21 MS. ANDERSON: Could plaintiff say one other word on
22 this?

23 THE COURT: Sure.

24 MS. ANDERSON: We would like to have the remaining
25 deposition taken prior to dispositive motions.

1 THE COURT: Right.

2 MS. ANDERSON: But the Court asked if there was
3 anything else that was hinging on this. And we did ask -- the
4 defendants have a motion, and we have joined in their motion to
5 have summary judgment moved as well, because we have asked to
6 have -- a couple of defendant's expert testimonies got moved,
7 and then so summary judgment would, in effect, be hinged on
8 that as well.

9 THE COURT: So, let me go back, then. You are going
10 to be completing expert depositions. You did not get to them;
11 now you want to complete them. That is going to take some
12 period of time. What are you talking about?

13 MS. ANDERSON: I believe the last one is November
14 13th. The next two weeks.

15 MR. GUELI: They are all -- they're scheduled, and we
16 are moving forward on that. I think the issue on the joint
17 motion, Carol -- Ms. Anderson and I agree that the parties had
18 previously, as Ms. Bloodgood stated, agreed that it would make
19 sense to put off Mr. Sandman's deposition until the privilege
20 issue is resolved, and I think we were also in agreement that
21 since that -- you know, he is a named defendant, and also
22 depending on what the rulings are on the documents, which may
23 or may not be produced or in and out of the case, it would make
24 sense to try to move -- request the Court to move the summary
25 judgment due date until that is cleared up.

1 So, that is where we are. We have got two experts, I
2 think, remaining to be deposed. They are both already
3 scheduled. They will take place in November, so I don't think
4 that will really hold anything up, and it will just be
5 finishing up whatever the Special Master needs to do and then
6 scheduling and taking Mr. Sandmann's deposition.

7 THE COURT: All right. I am just trying to deal
8 realistically with time here. I don't want to impose
9 unrealistic deadlines. On the other hand, I want real
10 deadlines. So, assume that a Special Master would be able to
11 complete the review by December 1. Then you take Mr. Sandman's
12 deposition sometime in the month of December, right?

13 MS. ANDERSON: That's acceptable. Absolutely.

14 THE COURT: And assuming that it is all done by the
15 end of the year, what are you talking about in terms of
16 dispositive motion practice?

17 MS. ANDERSON: I believe we propose -- Mr. Grueli
18 proposes two weeks.

19 MR. GUELI: It would be the latter half of January,
20 then, on that type of time schedule, I think.

21 THE COURT: January only has 14 days?

22 MR. GUELI: I'm sorry?

23 THE COURT: The latter half of January?

24 MR. GUELI: The latter half of January.

25 THE COURT: Right. So, if it's 14 days after the end

1 of the year, that suggests mid-January rather than the latter
2 half of January, unless January has developed 14 days.

3 So, I am going to set the dispositive motion date for the
4 22nd of January. And these are real dispositive motions, not
5 just opportunities to educate me, which is a daunting task.

6 MR. GUELI: No, your Honor. These will be real
7 motions.

8 THE COURT: All right. So, response -- this is just
9 the defendants? Are you going to file dispositive motions?

10 MS. ANDERSON: Haven't been -- no, not at this time.

11 THE COURT: All right.

12 MS. ANDERSON: No, we don't intend to file a
13 dispositive motion.

14 THE COURT: Right. I just, when I hear reservations,
15 wonder what time they will be filed. So, any dispositive
16 motions by January 22nd.

17 Your response by February 19.

18 I will permit a reply, that is it, on March 5th, and
19 we will set it for hearing on March 24th. Okay? So, that is
20 that schedule.

21 Now, back to the Special Master. I will see who I can
22 find and designate, that individual or firm, and then I will
23 get a report and I will give you five days to respond to that
24 report if there is some objection to what the report has to
25 say.

1 MR. GUELI: Just so I am clear, under the schedule you
2 are contemplating is that the Special Master's report would be
3 due by December 1?

4 THE COURT: Yes. By December 1, probably.

5 MR. GUELI: Can I ask your Honor -- we deliver the
6 documents to the Court by a week from today. I think it would
7 be helpful -- but I am interested to hear what the thoughts
8 are -- if we made a submission or some type of submission for
9 the Special Master to explain the position how -- or will there
10 be some type of actual argument or hearing in front of the
11 Special Master?

12 THE COURT: That is what this Motion to Compel was. I
13 did not find it very helpful, but that is what I thought it
14 was. This has really become much more of a to-do than seems
15 otherwise to be justified. But the parties made their choices
16 and they consume time and money as they choose.

17 But what do you propose, that you will now brief the
18 motion that was briefed before?

19 MR. GUELI: Well, no. I am just wondering what the
20 process would be other than just delivering, you know,
21 documents.

22 THE COURT: This is the collection of materials that
23 are generated in connection with this (indicating). Now, I
24 have to say that it has the nutritional sustenance of fluff,
25 but it did consume a great deal of time and apparently some

1 effort. So, now you are telling me that you will submit these
2 documents and you will explain really what the issues are all
3 about?

4 MR. GUELI: No, not at all, your Honor. I am just
5 asking if the Court has a preference or suggestion for --

6 THE COURT: I have a preference to narrow the issues
7 and deal with them as promptly as possible, and what I have
8 seen is this kind of elaborate gavotte. So, you think it will
9 be helpful. What do you propose?

10 MR. GUELI: If the Special Master is going to have the
11 briefing, I don't know that much more than that would be
12 required. I am actually just asking --

13 THE COURT: That being this one box (indicating).

14 This has been a kind of -- I do not know what I would
15 call it -- a rope-a-dope strategy, that is what the boxing
16 trainers used to refer to it as, just, you know, move around
17 the ropes and do not get knocked down.

18 Now I would like to get to the core of it. Do you
19 have a proposal for something additional that will sharpen this
20 matter for the Special Master?

21 MR. GUELI: Standing here, I do not, other than, you
22 know, if -- Well, I do not, your Honor, and I wasn't meaning to
23 suggest that there was; I was just asking if the Court had a
24 suggestion.

25 So, I am fine. I think the briefing will be more than

1 adequate for the Special Master to understand the issues.

2 THE COURT: You mean this briefing (indicating).

3 MR. GUELI: Yes.

4 MS. BLOODGOOD: Your Honor, may I make a suggestion?

5 THE COURT: Sure. A second.

6 MS. BLOODGOOD: A second one. I'm pushing my luck.

7 But perhaps a Special Master could convene a conference call
8 with the parties.

9 THE COURT: I am going to leave it to the Special
10 Master what he or she wants to do on this, in the absence of
11 some compelling explanation that there is a helpful way in
12 advance of the review of the Special Master to do that, and the
13 Special Master may well decide to have a hearing or to do it by
14 conference call or whatever --

15 MS. BLOODGOOD: Okay.

16 THE COURT: -- after some review.

17 MS. BLOODGOOD: That has been my experience with
18 Special Masters; they convene conferences, and the parties do
19 interact as though they are interacting with the judge
20 together.

21 THE COURT: Yes; that is my view too. The question is
22 whether or not some further road map apart from this would be
23 helpful, and in the absence of some suggestion, I cannot find
24 anything, and I will let the Special Master decide what he or
25 she wants to do with it. So, that is how I will deal with it.

1 But I really do want to try to keep this on this
2 schedule so that we can -- the dispositive motion schedule --
3 so that we can get to this and not have it roll off the tracks
4 here. So, I will tell the Clerk's Office that there will be
5 received an *ex parte* submission of some size next week, by
6 Wednesday of next week, I will say. That includes those
7 documents that in good faith you believe are covered by the
8 definitions that are provided of the documents that they are
9 now seeking.

10 MS. ANDERSON: Your Honor, if I could just pose -- I'm
11 thinking if I'm the Special Master how to go about this
12 process. And I am wondering if each of the parties were
13 allowed just to do a two-page letter just as introduction
14 summarizing that position. I know we have already got all
15 those pages.

16 THE COURT: Except to say, "Dear Special Master," and
17 to do it concisely, how would it differ from any of this except
18 perhaps not suffering from logorrhea?

19 MS. ANDERSON: How I'm saying it would be different,
20 it would be more similar to what the hearing would be, that the
21 parties can give an encapsulated version, and I am just
22 thinking if we are putting --

23 THE COURT: I think I am leaving this to the Special
24 Master.

25 MS. ANDERSON: Okay.

1 THE COURT: They will decide what they want to do. Of
2 course, time is money, and you will be paying for it as opposed
3 to a free good. And I do intend, if I find that there is
4 gamesmanship involved in this, to allocate the funds necessary
5 with some consideration of whether or not one party or the
6 other has been abusive either in asking for certain kinds of
7 discovery or withholding certain kinds of discovery.

8 But that is a different issue. Right now it is 50/50,
9 and it will be the usual rates of whatever the Special Master
10 charges.

11 All right? So, you have got a schedule. I will try
12 to get identified this week the individual or firm to whom that
13 is going to be referred so you will know. And I will simply
14 tell the Special Master that it is up to his or her judgment
15 what she wants to do in framing the issue or asking for further
16 assistance of the parties in identifying precisely what the
17 issues are.

18 So, these documents are going to show what has been
19 redacted, or is it going to be documents themselves?

20 MS. BLOODGOOD: The subject of our motion is not the
21 redactions, your Honor. It is all documents that were
22 completely withheld under privilege.

23 We assumed, once we had rulings on some of the
24 privilege documents, we could negotiate over the redactions, if
25 necessary. The subject of our motion was just the documents

1 that had been withheld.

2 THE COURT: We will go from there. But I certainly
3 hope for everyone's sake the Crown Jewels are going to be found
4 in these two or three boxes of indeterminate size.

5 So, you have a new schedule, and you will complete the
6 expert discovery. We will try to get this thing narrowed as
7 best we can. Okay?

8 MR. GUELI: Thank you.

9 THE COURT: Thank you very much.
10 (WHEREUPON, the proceedings adjourned at 3:00 p.m.)

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C E R T I F I C A T E

I, Brenda K. Hancock, RMR, CRR and Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of *In Re: Boston Scientific Corporation et al.*, No. 1:05-cv-11934-DPW.

Date: December 4, 2009

/s/ Brenda K. Hancock

Brenda K. Hancock, RMR, CRR

Official Court Reporter